

Senate Daily Reader

Monday, February 13, 2012

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State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

400T0248

HOUSE ENGROSSED NO. **HB 1049** - 1/24/2012

Introduced by: The Committee on Judiciary at the request of the Department of the Military

1 FOR AN ACT ENTITLED, An Act to add certain definitions regarding the Department of the
2 Military.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-1-1 be amended to read as follows:

5 33-1-1. ~~As~~ Terms used in chapters 33-1 to 33-15, inclusive, ~~unless the context otherwise~~
6 ~~plainly requires~~ mean:

7 (1) "Armed forces," includes the United States Army, the United States Navy, the United
8 States Marine Corps, and the United States Air Force;

9 (2) "Department of Defense," ~~means~~ the Department of Defense, the Department of the
10 Army, Department of the Navy, or the Department of the Air Force, as appropriate
11 under the laws of the United States; ~~and~~

12 (3) "Secretary of defense," ~~means~~ the secretary of defense, the secretary of the army, the
13 secretary of the navy, or the secretary of the air force, as appropriate under the laws
14 of the United States;

15 (4) "Servicemember," any member serving in an active duty status in the armed forces



1 of the United States, National Guard, or the Reserves;

2 (5) "Active duty," service pursuant to United States Code Title 10 or full-time National
3 Guard duty pursuant to United States Code Title 32 § 502(f)(2) as of January 1, 2012,
4 for the purpose of homeland defense operations or for state active duty pursuant to
5 § 33-9-1; and

6 (6) "Deployment," the temporary transfer of a servicemember serving in active duty
7 status to a location other than the servicemember's normal place of duty or residence
8 in support of combat or military operations. The term includes the mobilization of
9 a National Guard or Reserve servicemember to extended active duty status at any
10 continental United States installation in support of military operations. The term does
11 not include National Guard or Reserve annual training.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

771T0022

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1088** - 1/26/2012

Introduced by: Representatives Street, Bolin, Deelstra, and Rausch and Senators Krebs, Frerichs, and Nelson (Tom)

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for charging and collecting
2 certain fees for confining certain people in the county jail.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-11-8 be amended to read as follows:

5 24-11-8. If any person is confined in any county jail by authority of the United States or of
6 any state or territory other than this state or any county other than the county in which ~~such~~ the
7 county jail is located, the sheriff, ~~jailer~~, or other person in charge of the jail, ~~shall~~ may charge
8 and collect, ~~in a sum fixed by the county in~~ addition to the charges allowed by law for ~~persons~~
9 any person confined by authority of ~~his own~~ the county, a sum necessary to fully compensate
10 and reimburse the county for money actually and necessarily expended for ~~fuel, light, utilities~~
11 and other expenses in the keeping of ~~such~~ the person, including the expense of building
12 depreciation, administration, and a reasonable charge for obsolescence of the facility and all
13 other tangible and intangible costs, to the county. The amount of the expense shall be fixed by
14 the board of county commissioners and collected by the sheriff or other person in charge of ~~such~~



- 1 the county jail in the manner and at the time other charges provided by law are ~~by him~~ collected.
- 2 Upon collection of the money, the ~~sheriff shall turn it over to the county treasurer of the county.~~
- 3 ~~The~~ money collected for building depreciation, and tangible and intangible costs ~~shall~~ may be
- 4 deposited into a special jail building fund. Moneys in the special jail building fund may only be
- 5 used to make capital improvements to the existing jail or for the building of a new jail.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0201

SENATE APPROPRIATIONS ENGROSSED NO. **SB 37** - 2/9/2012

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated natural
2 resources conservation fund to the State Conservation Commission and to declare an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is hereby appropriated from the coordinated natural resources conservation
6 fund the sum of five hundred thousand dollars (\$500,000), or so much thereof as may be
7 necessary, in accordance with subdivision 10-47B-149(4), to the State Conservation
8 Commission.

9 Section 2. The State Conservation Commission shall approve vouchers and the state auditor
10 shall draw warrants to pay expenditures authorized by this Act.

11 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
12 June 30, 2013, shall revert in accordance with the procedures prescribed in chapter 4-8.

13 Section 4. Whereas, this Act is necessary for the support of the state government and its
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



- 1 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

681T0420

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 75** - 2/8/2012

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Kraus, Maher, Nelson (Tom), and Novstrup (Al) and
Representatives Willadsen and Hunt

1 FOR AN ACT ENTITLED, An Act to revise the determination of fees that may be charged for
2 certain public records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-27-1.2 be amended to read as follows:

5 1-27-1.2. If a custodian of a public record of a county, municipality, political subdivision,
6 or tax-supported district provides to a member of the public, upon request, a copy of the public
7 record by transmitting it from a modem to an outside modem, a reasonable fee may be charged
8 for such specialized service. Such fee may include a reasonable amount representing a portion
9 of the amortization of the cost of computer equipment, including software, necessarily added
10 in order to provide such specialized service. This section does not require a governmental entity
11 to acquire computer capability to generate public records in a new or different form if that new
12 form would require additional computer equipment or software not already possessed by the
13 governmental entity.

14 No fee may be charged for any minutes that were recorded in the last three years or for any



- 1 accounting record in its original format. Any confidential information in the accounting record
- 2 related to the payroll shall be redacted or password protected.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

645T0640

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 160** - 2/9/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Novstrup (Al), Brown, Fryslie, Heineman, and Kraus and
Representatives Cronin, Hoffman, Moser, Novstrup (David), Tulson, and
Wick

- 1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the James River
2 Water Development District.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
4 Section 1. The Legislature may dissolve the James River Water Development District.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

156T0673

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 169** - 2/7/2012

Introduced by: Senators Hansen (Tom), Begalka, Frerichs, Krebs, Novstrup (Al), and Peters
and Representatives Street, Greenfield, Rozum, Sigdestad, and Tulson

1 FOR AN ACT ENTITLED, An Act to create certain watershed districts and to establish the
2 Regional Watershed Advisory Task Force.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 46A-14 be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The James River Watershed District is hereby established. The James River Watershed
7 District may include any conservation district, or any watershed district that is formed under any
8 conservation district, located in Aurora, Beadle, Bon Homme, Brown, Clark, Davison, Day,
9 Douglas, Edmunds, Faulk, Hand, Hanson, Hutchinson, Hyde, Jerauld, Kingsbury, Marshall,
10 McCook, McPherson, Miner, Sanborn, Spink, and Yankton counties. A conservation district
11 or watershed district shall be included in the James River Watershed District upon passage of
12 a resolution to that effect by the conservation district board of supervisors. The initial board of
13 managers for the James River Watershed District shall consist of a district supervisor from each
14 conservation district who shall be nominated by the conservation district in the resolution for



1 inclusion in James River Watershed District. The James River Watershed District shall operate
2 after formation under the provisions of chapter 46A-14.

3 Section 2. That chapter 46A-14 be amended by adding thereto a NEW SECTION to read
4 as follows:

5 There is hereby established the Regional Watershed Advisory Task Force. The task force
6 shall consist of the following fourteen members:

7 (1) The speaker of the House of Representatives shall appoint four members of the
8 House of Representatives, no more than two of whom may be from one political
9 party;

10 (2) The speaker of the House of Representatives shall appoint three members of the
11 general public. At least one of the members shall have a background in natural
12 resources law, science, or management, and at least one of the members shall have
13 an agricultural or business background;

14 (3) The president pro tempore of the Senate shall appoint four members of the Senate,
15 no more than two of whom may be from one political party; and

16 (4) The president pro tempore of the Senate shall appoint three members of the general
17 public. At least one of the members shall have a background in natural resources law,
18 science, or management, and at least one of the members shall have an agricultural
19 or business background.

20 The initial appointments shall be made no later than July 1, 2012, and shall serve until
21 January 12, 2013. The speaker of the House of Representatives and president pro tempore of the
22 Senate, before the close of each regular session of the Legislature held in odd-numbered years,
23 shall appoint members to the task force for a term of two years. If there is a vacancy on the task
24 force, the vacancy shall be filled in the same manner as the original appointment.

1 Section 3. That chapter 46A-14 be amended by adding thereto a NEW SECTION to read
2 as follows:

3 The Regional Watershed Advisory Task Force established pursuant to section 2 of this Act
4 shall advise the James River Watershed District created pursuant to section 1 of this Act and any
5 other new or existing watershed district created pursuant to chapter 46A-14 on matters relating
6 to drainage, erosion, flood control, reclamation, environmental protection, and improvement of
7 lands, soils, waters, and all other authorized purposes. In addition, the task force shall consider
8 potential alternative organizational structures and entities appropriate to address such issues.
9 The task force shall report to the Senate and House of Representatives and may submit a copy
10 of its report to the Governor. The task force may present draft legislation and policy
11 recommendations to the Legislative Research Council Executive Board. The task force shall
12 make recommendations in the following areas:

- 13 (1) The proper role, purposes, structure, powers, boundaries, and financing for regional
14 and local watershed districts and the relationship of such districts to other types of
15 water and natural resources-related special purpose districts;
- 16 (2) The role of watershed districts and other state and local government entities with
17 respect to drainage issues, including drainage planning and management, resolution
18 of drainage disputes, and recommendations for potential realignment of
19 responsibilities for drainage matters; and
- 20 (3) Potential alternative organizational structures, entities, and strategies appropriate to
21 address statewide, regional, and local issues relating to water and natural resources
22 conservation, protection, management, and use.

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EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

974T0086

SENATE EDUCATION ENGROSSED NO. **SB 186** - 2/7/2012

Introduced by: Senators Heineman, Johnston, Kraus, Maher, Novstrup (Al), Rhoden, and
Schlekeway and Representatives Gosch, Bolin, Brunner, Hansen (Jon),
Jensen, Liss, Rausch, Sly, and Wick

1 FOR AN ACT ENTITLED, An Act to update the definition of the nonsectarian textbooks that
2 are loaned to certain students to include digital materials.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-34-23 be amended to read as follows:

5 13-34-23. Each public school board shall loan without charge to all persons ages five
6 through nineteen who are either enrolled in a public school, ~~or in a school supervised in accord~~
7 ~~with chapter 13-4~~ or a nonpublic school, or who are engaged in a course of instruction pursuant
8 to § 13-27-3, within the school district under such board's jurisdiction or who are residing in
9 such district but are not enrolled in any such school or engaged in any such course of instruction,
10 such nonsectarian textbooks designed for individual use as are normally furnished by such
11 school board to individual students enrolled in the public schools of the district under such
12 board's jurisdiction. For the purposes of this chapter, textbooks are any instructional materials
13 that constitute the principal source of teaching and learning for a given course of study including
14 print and digital materials. All such textbooks shall be approved by the respective school boards.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0728

SENATE EDUCATION ENGROSSED NO. **SB 191** - 2/7/2012

Introduced by: The Committee on Education at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for authorization to offer postsecondary
2 education services in South Dakota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The terms used in this Act mean:

- 7 (1) "Accredited" or "accreditation," the status of public recognition that an accrediting
8 agency recognized by the United States Department of Education pursuant to Title
9 IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 et seq.) as amended to
10 January 1, 2012, grants to an institution or educational program that meets the
11 agency's established requirements;
- 12 (2) "Complaint," an allegation that a postsecondary institution does not meet the
13 requirements of this Act; an allegation that a postsecondary institution violated
14 chapter 37-24; or an allegation raised by a student that a postsecondary institution
15 does not meet standards established by the institution's accrediting agency;



(3) "Secretary," the secretary of state;

(4) "Educational program," a program of organized instruction or study beyond secondary education that leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential;

(5) "Federal student financial assistance programs," federal student financial assistance program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.), as amended to January 1, 2012;

(6) "Postsecondary institution," a person, business entity, nonprofit corporation or government entity that operates educational programs beyond secondary education.

Section 2. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

No postsecondary institution may provide educational programs at physical locations in this state unless it has been issued a certificate of authorization to provide postsecondary education as provided in this Act. Additionally, except for such postsecondary institutions providing educational programs at physical locations in this state on the effective date of this Act, no postsecondary institution may publicize the availability in this state of such programs unless it has been issued a certificate of authorization to provide postsecondary education as provided in this Act.

Section 3. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as follows:

To ensure that postsecondary institutions legally operating in this state as of this date and participating in the federal student financial assistance programs may comply with the state authorization regulations promulgated by the United States Department of Education on October 29, 2010, codified at 34 C.F.R. Section 600.9 and effective as of July 1, 2011, the

1 following postsecondary institutions are acknowledged by the Legislature as being authorized
2 to provide educational programs at physical locations in this state, subject to the provisions of
3 section 5 of this Act:

- 4 (1) Augustana College;
- 5 (2) Avera McKennan Hospital School of Radiologic Technology;
- 6 (3) Avera Sacred Heart Hospital of Radiologic Technology;
- 7 (4) Black Hills State University;
- 8 (5) Colorado Technical University;
- 9 (6) Dakota State University;
- 10 (7) Dakota Wesleyan University;
- 11 (8) Globe University;
- 12 (9) Kilian Community College;
- 13 (10) Lake Area Technical Institute;
- 14 (11) Mitchell Technical Institute;
- 15 (12) Mount Marty College;
- 16 (13) National American University;
- 17 (14) Northern State University;
- 18 (15) Presentation College;
- 19 (16) Sanford Medical Center;
- 20 (17) Sioux Falls Seminary;
- 21 (18) South Dakota School of Mines and Technology;
- 22 (19) South Dakota State University;
- 23 (20) Southeast Technical Institute;
- 24 (21) University of Sioux Falls;

1 (22) University of South Dakota; and

2 (23) Western Dakota Technical Institute.

3 Section 4. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The secretary shall issue a certificate of authorization to provide postsecondary education
6 to any postsecondary institution named in section 3 of this Act. The secretary also may issue a
7 certificate of authorization to provide postsecondary education to any other postsecondary
8 institution to provide educational programs at physical locations in this state if the
9 postsecondary institution:

10 (1) Is established as an instrumentality of this state, or is legally established to operate
11 as a private business entity or nonprofit corporation in accordance with applicable
12 state law; and

13 (2) Is accredited or is operating under an affiliation agreement whose terms make an
14 accredited postsecondary institution responsible for awarding academic credit and
15 educational credentials to its students and maintaining transcripts for such students.

16 Section 5. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Authorization to provide educational programs at physical locations in this state, once
19 granted by the secretary, is continuous so long as the postsecondary institution continues to meet
20 the requirements set forth in section 4 of this Act.

21 Section 6. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The secretary shall maintain a registry of all postsecondary institutions authorized by this
24 Act and such other postsecondary institutions for which it has issued a certificate of

1 authorization to provide postsecondary education. If any institution changes the name under
2 which it operates its educational programs, or the physical location of any campus, the
3 institutions shall notify the secretary in writing within thirty days of such change and the
4 secretary shall, as needed, issue an updated certificate of authorization to provide postsecondary
5 education. The secretary shall develop, by rules promulgated pursuant to chapter 1-26, such
6 forms and procedures as may be necessary to administer the requirements of this Act.

7 Section 7. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The Office of Attorney General, Division of Consumer Protection, shall review and act on
10 complaints, as such term is defined by this Act, concerning postsecondary institutions providing
11 educational programs at physical locations in the state, including, as necessary, requiring a
12 postsecondary institution to cease its operations in the state. If a complaint relates to a
13 postsecondary institution controlled by the Board of Regents, the attorney general shall refer the
14 matter to the Board of Regents. In all other cases, the attorney general shall refer the complaint
15 to the institution and provide the institution with no less than thirty days to respond to the
16 matters set forth in the complaint, including an opportunity to demonstrate any actions it has
17 taken or plans to take in response to the complaint, and to consider whether the complainant has
18 exhausted all available administrative remedies within the institutions's policies and procedures.
19 In administering the requirements of this section, the attorney general may refer a complaint to
20 an institution's accrediting agency for review and investigation, with the accrediting agency
21 providing a report of its investigation to the attorney general for further disposition. In enforcing
22 this Act, the attorney general has all the enforcement powers, authorities, and remedies provided
23 by chapter 37-24.

24 Section 8. That chapter 13-48 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The provisions of this Act do not apply to postsecondary institutions:

3 (1) Established by the government of the United States;

4 (2) Established by the government of an Indian tribe whose tribal lands are located, in
5 whole or in part, in this state;

6 (3) Established by owned, controlled, operated, and maintained by a religious
7 organization lawfully operating as a nonprofit religious corporation and awarding
8 only religious degrees or certificates for the purpose of conferring clerical status or
9 authority within that religion; or

10 (4) Subject to the jurisdiction and regulations to the South Dakota Cosmetology
11 Commission.